

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:

Nobuyoshu Morimoto

Serial No. 09/613,339

Filed: July 10, 2000

For: **SYSTEM AND METHOD FOR  
NEGOTIATING IMPROVED  
TERMS FOR PRODUCTS AND  
SERVICES BEING PURCHASED  
THROUGH THE INTERNET**

§ Group Art Unit: 3621

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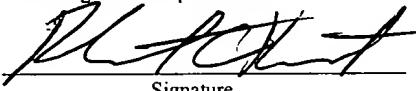
§

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37 C.F.R. § 1.8**

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**APPEAL BRIEF**

**Mail Stop Appeal Brief - Patents**  
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Sir/Madam:

Further to the Notice of Appeal filed January 31, 2005, Appellant presents this Appeal Brief. Appellant respectfully requests that the Board of Patent Appeals and Interferences consider this appeal.

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## **I. REAL PARTY IN INTEREST**

As evidenced by the assignment recorded at Reel/Frame 012868/0548, the subject application is owned by NIHON DOT.COM CO., LTD. (d.b.a. ColonDot.com).

## **II. RELATED APPEALS AND INTERFERENCES**

No other appeals, interferences or judicial proceedings are known which would be related to, directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

## **III. STATUS OF CLAIMS**

Claims 1-44 stand finally rejected. The rejection of claims 1-44 is being appealed. A copy of claims 1-44 is included in the Claims Appendix herein below.

## **IV. STATUS OF AMENDMENTS**

No amendments to the claims have been submitted subsequent to the final rejection.

## **V. SUMMARY OF CLAIMED SUBJECT MATTER**

A common dilemma faced by many purchasers is the uncertainty of knowing whether they have secured the best deal available. This holds true for purchases made using the Internet as well. Most consumers do not have the time or patience to search hundreds of different stores and/or web sites to find the ultimate lowest price. The traditional purchasing process typically starts with the purchaser specifying the product requirements, including commercial terms such as price or delivery. The purchaser typically browses through a plurality of Internet commerce sites to locate the best deal, i.e., locating an Internet site, which matches the product specifications as specified by the purchaser, including the commercial terms. Very often the purchaser may not have the necessary skills to conduct an effective search for the best deal on the Internet. For

example, the purchaser may only look at one or two popular Internet sites and ignore the rest.

Independent claims 1, 14 and 28 are directed to a method, system and medium comprising program instructions for offering to perform comparative Internet shopping in response to detecting the issuance of a commitment to purchase a particular product or service. The method recited by claim 1 includes detecting an issuance of a commitment to purchase (with associated terms) for a product or service being purchased by a purchaser using an Internet web site. For example, as described on page 3 of the Specification, a personal broker-agent program may detect an issuance of a commitment to purchase by a purchaser over the Internet. The commitment to purchase may be performed by various methods, such as an entry of a credit card number or clicking of a “confirm order” button, which may be detected to indicate the issuance of the commitment to purchase. (*see, e.g.* FIGs. 1-6; page 3, lines 12 – 22; page 12, line 9 – page 13, line 8).

The method of claim 1 also includes making an offer to the purchaser to accept or reject a contract for negotiating improved terms within a specified time, in response to detecting the issuance of the commitment to purchase. For example, a broker-agent program may analyze the details of the commitment to purchase and determine if the purchase (e.g., based on the type of product service or the dollar amount of the purchase) is of business interest. If the purchase is of interest, then the personal broker-agent program may make an offer to the purchaser to accept or reject a contract to find the specified product with improved terms within a specified time. The purchaser may accept or reject the contract. (*see, e.g.* FIG. 4A)

If the purchaser accepts the offer the offered contract, the method of claim 1 further includes conducting a search for the improved terms within the specified time, receiving the improved terms within the specified time and executing the contract. Various methods may be used to search for improved terms. For example, a personal broker-agent program may conduct an auction and/or search the Internet, and other

sources for a better deal. When searching the internet, relevant suppliers' web sites and/or product pricing databases may be searched. (*see, e.g.* page 3, line 18 – page 4, line 2; page 15, lines 8-20).

Additionally, the provider of the personal broker-agent program might have established pre-negotiated agreements with preferred suppliers whereby the preferred supplier may guaranty a better price (e.g., by some fixed percentage) than the price included with the commitment to purchase. In one embodiment, the savings may be, in part, passed on to the purchaser and, in part, retained by the provider of personal broker-agent program as profit. The personal broker-agent program may evaluate results, such as auction responses and/or search results, to determine the best deal. The contract between the purchaser and the personal broker-agent program may then be executed for the best deal. If the purchaser elects not to accept the contract offer from the personal broker-agent program, then the purchaser may execute the original transaction. (*see, e.g.*, FIGs. 4a-d and page 12, line 9 – page 16, line 8)

Independent claims 29 and 40 are directed to a method and medium comprising program instructions for offering to perform comparative Internet shopping in response to detecting the issuance of a commitment to purchase a particular product or service, similar to claims 1 and 28. Similar to claim 1, the method of claim 29 includes detecting an action by a purchaser that indicates that the purchaser is about to make an original purchase for a particular item or service over the Internet for a particular price. In response to detecting such an action, the method of claim 29 also includes offering the purchaser an opportunity to enter into an alternative contract in which the purchaser agrees to wait a predetermined amount of time in exchange for a possibility of securing a better price for the particular item or service. For a more detailed discussion regarding detecting such an action, and regarding offering a purchaser an alternative contract for better pricing, please refer to the description of claim 1 above.

As with claim 1, the method of claim 29 includes searching for better pricing for the particular item or service and if a better price is found before the predetermined amount of time expires, purchasing the particular item or service for the purchaser at the better price and charging the purchaser a new price between the particular price and the better price. Thus, the alternative contract may be executed if a better price is found during the predetermined amount of time. Please see the discussion of claim 1 for a more detailed description of searching and finding better pricing for a particular item or service. (see, e.g. FIGs. 4A and B, page 3, line 24 – page 4, line 8; page 14, lines 12 – 16; page 15, line 22 – page 16, line 3).

Additionally, if a better price is not found before the predetermined about of time expires, the original purchase for the particular item or service over the Internet for the particular price may be executed. Thus, if better terms or pricing cannot be found within the predetermined time specified by the alternative contract, the purchaser is sold the item or service for the price the purchaser originally found. (see, e.g. page 4, lines 4-8; page 15, line 22 – page 16, line 3).

Independent claims 41 and 42 are directed to a method and medium comprising program instructions for performing comparative Internet shopping in response to detecting the issuance of a commitment to purchase a particular product or service, similar to claims 1 and 28. As with claims 1 and 29 described above, the method of claim 41 includes detecting an action by a purchaser that indicates that the purchaser is about to make an original purchase for a particular item or service over the Internet for a particular price. Please see the above discussions of claims 1 and 29 for more information regarding detecting such an action.

The method recited by claim 41 also includes automatically delaying the purchase for a predetermined about of time and searching for a better price for the particular item or service. For example, as described above, a broker-agent may search various sources for better pricing. Please see the discussions above regarding the other independent claims for more details regarding the various ways of locating improved terms or pricing.

As with the method of claim 29, the method of claim 41 also includes purchasing the particular item or service for the purchaser at a better price and charging the purchaser a new price between the original price and the better price if a better price is found before the predetermined amount of time expires and executing the original purchase for the item or service for the original price if a better price is not found before the predetermined amount of time expires. Please refer to the above discussions regarding claims 1 and 29 for a more detailed description of either purchasing the item for the better price (and charging the purchaser a price between the original and better prices) or for the original price. (*See also*, FIG. 4A and 4B; page 3, line 18 – page 4, line 2; page 14, lines 18 – 29; page 15, lines 8-20).

Independent claim 44 is directed to a method for performing comparative Internet shopping in response to detecting the issuance of a commitment to purchase a particular product or service, similar to claims 1, 29, and 41. As with the methods of claims 1, 29 and 41, the method of claim 44 includes detecting an action indicating that a purchaser is making a purchase for a particular item or service over the Internet for particular price. For a detailed description about detecting such an action, please see the above discussions of claims 1, 29 and 44.

The method of claims 44 also includes accessing a broker-agent web site for seeking a better price for the item or service within a predetermined amount of time. For example, a database storing product pricing and other product information. ((*See also*, FIG. 5; page 14, lines 12 – 29; page 15, line 8 – page 16, line 3).

As with claims 29 and 41, the method of claim 44 also includes purchasing the particular item or service for the purchaser at a better price and charging the purchaser a new price between the original price and the better price if a better price is found before the predetermined amount of time expires and executing the original purchase for the item or service for the original price if a better price is not found before the

predetermined amount of time expires. Please refer to the above discussions regarding claims 29 and 41 for a more detailed description of either purchasing the item for the better price (and charging the purchaser a price between the original and better prices) or for the original price. (*See also*, FIG. 4A and 4B; page 3, line 18 – page 4, line 2; page 14, lines 18 – 29; page 15, lines 8-20).

## **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

1. Claims 1-44 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Andrews et al. (U.S. Patent 6,285,986) (hereinafter “Andrews”) and Treyz et al. (U.S. Patent 6,587,835) (hereinafter “Treyz”).

## **VII. ARGUMENT**

### **Ground of Rejection:**

Claims 1-44 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Andrews et al. (U.S. Patent 6,285,986) (hereinafter “Andrews”) and Treyz et al. (U.S. Patent 6,587,835) (hereinafter “Treyz”). Appellant traverses this rejection for at least the following reasons. Different groups of claims are addressed under their respective subheadings.

### **Claims 1, 13, 14, 26, 27 and 28:**

The cited art fails to teach or suggest “in response to said detecting a commitment to purchase, making an offer to said purchaser to accept or reject a contract for negotiating said improved terms within a specified time,” as recited in claim 1. Andrews teaches a bundle system wherein members are able to view, select, and purchase bundles generated and posted by the bundle vendors (Andrews, Abstract). When vendors enter products that are available to be included in bundles, vendors may indicate whether they are willing to negotiate terms such as price or quantity if the vendors’ products/services are reviewed and chosen for inclusion within a bundle (Andrews, col. 8, lines 9-10 and

42-44). However, this indication of a willingness to “negotiate” with a bundle *vendor* about the price or quantity of a product/service when the product/service is selected for inclusion in a bundle neither teaches nor suggests “offering a purchaser a contract for negotiating said improved terms” “in response to detecting an issuance of a commitment to purchase,” as recited in claim 1.

In Andrews, the purchaser of a bundle is not presented with any offer to negotiate improved terms. The indication of a willingness to negotiate mentioned in col. 8, lines 41-59 is between the product/service vendor and the bundle vendor, not the bundle purchaser. The willingness to negotiate in Andrews is performed “if and when this product/service is reviewed and chosen for inclusion within a bundle” by a bundle vendor. Any potential bundle purchaser is not involved at this point. Andrews only refers to possible negotiations between the bundle vendor and the vendors of products/services to be included in bundles.

Moreover, Fig. 4 of Andrews clearly shows the indication of a willingness to negotiate as part of the bundle product entry process described at col. 8, line 8 – col. 9, line 35. *This process is performed before a bundle including the product/service is even created. Thus, the willingness to negotiate in Andrews clearly cannot be performed in response to said detecting a commitment to purchase.*

Furthermore, the willingness to negotiate in Andrews is not a contract for negotiating improved terms within a specified time. The bundle vendor and product/service vendor in Andrews do not enter into a contractual agreement for negotiating. The indication of willingness to negotiate in Andrews is not an offer for a binding contract for negotiating. Furthermore, the willingness to negotiate in Andrews is not described as being limited to being performed within a specified time.

In the Response to Arguments section of the Final Office Action, the Examiner repeats his assertion that the willingness to negotiate in Andrews teaches making an offer to the purchaser to accept or reject a contract for negotiating the improved terms within a

specified time and cited column 8, lines 45-67, column 2, lines 37-48. However, column 8, lines 45-67 of Andrews simply describes that a product/service vendor may indicate whether the vendor is willing to negotiate terms if the vendor's product/service is selected for inclusion in a bundle. As discussed above, a vendor's willingness to negotiate terms does not include making an offer to a purchaser to accept or reject a contract for negotiating the improved terms within a specified time. The Examiner specifically refers to column 8, lines 50-52, where Andrews teaches, "... the vendor is prompted to determine whether or not the vendor is willing to negotiate on quantity of the product/service available for a bundle." However, prompting a *vendor* to determine whether or not that vendor is willing to negotiate is the complete opposite of making an offer *to the purchaser* to accept or reject a contract for negotiating, as is recited in claim 1. Also, prompting for a *willingness to negotiate* is not the same as (or even suggestive of) making an offer to the purchaser to accept or reject a contract for negotiating.

The Examiner also cites column 2, lines 37-48 and specifically cites lines 44-47 where Andrews teaches, "[o]n auction related internet sites, if the user has the highest bid at the end of the specified time period, then the user also enters the payment and shipping information." This passage of Andrews has no relevance whatsoever to making an offer to the purchaser to accept or reject a contract for negotiating the improved terms within a specified time. Bidding in an online auction has absolutely nothing to do with making or receiving any offer to accept or reject a contract for negotiating improved terms.

In further regard to claim 1, the cited art fails to anticipate, teach, or suggest "if said purchaser accepts said offer: conducting a search for said improved terms within said specified time; receiving said improved terms within said specified time; and executing said contract." Column 8, lines 45-67 of Andrews simply describes that a product/service vendor may indicate whether the vendor is willing to negotiate terms if the vendor's product/service is selected for inclusion in a bundle. Column 2, lines 37-48 of Andrews simply describe that a *user* may search for and obtain information about products or services offered by a retail-oriented internet site (col. 2, lines 37-48). There is clearly no description in Andrews of a purchaser accepting a contract for negotiating improved

terms within a specified time. Nor is there any description in Andrews of conducting a search for said improved terms within said specified time; receiving said improved terms within said specified time; and executing said contract.

Additionally, Andrews combined with Treyz fails to teach or suggest detecting an issuance of a commitment to purchase with associated terms for the product or service being purchased by a purchaser using an Internet web site. Treyz teaches a system in which a handheld computing device may be used to provide a user with shopping assistance when physically present, in person, in a retail shopping mall (Abstract). The Examiner cites column 1, lines 49-52 where Treyz describes how users of his handheld device may make financial commitments toward purchases prior to completing purchase transactions. The Examiner also cites column 11, line 63 – column 12, line 10 describing how manufacturers may provide a discount or otherwise subsidize a purchase if an item is purchased from that manufacturer. Neither of the cited passages nor any other portion of Treyz mentions anything about detecting an issuance of a commitment to purchase with associated term for the product or service being purchased *by a purchaser using an Internet web site*, as recited in Claim 1. Treyz is concerned with providing shopping assistance to shoppers in shopping malls, not purchasers using an Internet web site. Furthermore, the shopping assistance provided by Treyz has absolutely no bearing on Andrews' automated negotiations for combining products or services of vendors to be sold as a bundle. Even if Andrews was modified according to Treyz so that a purchaser of a bundle made a commitment to purchase, such a modification would have nothing to do with the teachings of Andrews relied upon by the Examiner pertaining to the interaction between the product/service vendor and the bundle vendor that is part of the bundle product entry process and does not occur at the time of purchase.

### **Claims 2 and 15:**

Regarding claim 2, Andrews in view of Treyz fails to teach or suggest that the detecting comprises detecting the purchaser entering a credit card number or pre-paid account number of a gift certificate number. The Examiner cites column 2, lines 37-48

and argues, “Andrews discloses a method of payment and shipping information, it is be obvious to realize that the form of payment can also include payment by credit card or gift certificate or account number.” Andrews describes how if a user decides to purchase a product from an internet site, the user then enters payment and shipping information (column 2, lines 39-44). Merely mentioning that a user may enter payment and shipping information does not disclose any and every possible form of payment. Nowhere does Andrews mention a user entering credit card numbers, account numbers, or gift certificate numbers. The Examiner is merely using hindsight analysis to include the limitations of claim 2 in Andrews’ system. Furthermore, even if credit card payment was used in Andrews’ system, that would still not suggest making an offer to the purchaser to accept or reject a contract for negotiating said improved terms within a specified time *in response to* detecting an issuance of a commitment to purchase which comprises detecting entry of a credit card number.

#### **Claims 3 and 16:**

Regarding claim 3, Andrews in view of Treyz fails to teach or suggest that detecting an issuance of a commitment to purchase with associated terms for said product or service being purchased by a purchaser using an Internet web site comprises detecting the purchaser viewing a particular web page. The Examiner cites column 1, line 65 – column 2, line 14 of Andrews that describes how someone uses a web browser to access information on the Internet. Nowhere does the passage mention that detecting an issuance of a commitment to purchase comprises *detecting* a purchaser viewing a particular web page. A simple description of how web browsers work to access information on the Internet does not in any way suggest detecting a purchaser viewing a particular web page as part of detecting an issuance of a commitment to purchase with associated terms for a product or service being purchased by a purchaser using an Internet web site. The cited passage does not even mention online purchasing, but instead describes generally how web browsers and hyperlinks work.

#### **Claims 4 and 17:**

Regarding claim 4, Andrews in view of Treyz fails to teach or suggest that detecting an issuance of a commitment to purchase with associated terms for said product or service being purchased by a purchaser using an Internet web site comprises detecting said purchaser accessing a particular URL. As with the rejection of claim 3, discussed above, the Examiner cites column 1, line 65 – column 2, line 14 of Andrews that describes how someone uses a web browser to access information on the Internet. However, the cited passage does not describe that detecting an issuance of a commitment to purchase comprises *detecting* a purchaser accessing a particular URL. A simple description of how web browsers work to access information on the Internet does not imply detecting a purchaser accessing a particular URL as part of detecting an issuance of a commitment to purchase with associated terms for a product or service being purchased by a purchaser using an Internet web site. The cited passage does not even mention online purchasing, but instead describes generally how web browsers and hyperlinks work.

#### **Claims 5 and 18:**

Regarding claim 5, Andrews in view of Treyz fails to teach or suggest that detecting an issuance of a commitment to purchase with associated terms for said product or service being purchased by a purchaser using an Internet web site comprises detecting said purchaser clicking an icon to confirm an order. As with the rejection of claim 3, discussed above, the Examiner cites column 1, line 65 – column 2, line 14 of Andrews that describes how someone uses a web browser to access information on the Internet. However, the cited passage does not describe that detecting an issuance of a commitment to purchase comprises *detecting* a purchaser clicking an icon to confirm an order. A simple description of how web browsers work to access information on the Internet does not imply detecting a purchaser clicking an icon to confirm an order as part of detecting an issuance of a commitment to purchase with associated terms for a product or service being purchased by a purchaser using an Internet web site. The cited passage does not even mention online purchasing, but instead describes generally how web browsers and hyperlinks work.

### **Claims 6 and 19:**

Regarding claim 6, Andrews in view of Treyz fails to teach or suggest that making an offer to the purchaser comprises displaying the contract on a screen of a computer system used by the purchaser to purchase the product over the Internet. The Examiner cites column 1, line 65 – column 2, line 14 of Andrews. However, this portion of Andrews merely describes how someone uses a web browser to access information on a server over the internet. This passage has no relevance to displaying a contract for negotiating improved terms within a specified time on a screen of a computer system in response to detecting an issuance of a commitment to purchase. The Examiner has provided no explanation supporting his assertion that this passage teaches the limitations of claim 6. The cited passage does not mention a contract for negotiating improved terms nor about displaying any contract on a screen of a computer system. Nor does the cited passage have anything to do with an offer made in response to detecting an issuance of a commitment to purchase.

### **Claims 7 and 20:**

Regarding claim 7, Andrews in view of Treyz fails to teach or suggest that if the purchaser rejects the contract: executing the commitment to purchase. The Examiner cites column 1, line 65 – column 2, line 14. However, this portion of Andrews merely describes how someone uses a web browser to access information on a server over the internet. This passage has no relevance to executing a commitment to purchase if a purchaser rejects a contract for negotiating improved terms within a specified time. Merely describing how to use a web browser does not suggest that if the purchaser rejects the contract, executing the commitment to purchase.

### **Claims 8 and 21:**

Regarding claim 8, Andrews in view of Treyz fails to teach or suggest that the commitment to purchase includes a purchase order for which payment has been

guaranteed by the purchaser. The Examiner cites column 2, lines 37-48 and argues, “Andrews discloses a method of payment and shipping information, it is obvious to realize that the form of payment can also include payment by credit card or gift certificate or account number.” The Examiner makes no mention of the limitations of claims 8 and 21. Presumably, the Examiner contends that it is also obvious that the form of payment can also include a guaranteed purchase order as recited in claim 8. However, the cited passage only describes how if a user decides to purchase a product from an internet site, the user then enters payment and shipping information (column 2, lines 39-44). Merely mentioning that a user may enter payment and shipping information does not disclose any and every possible form of payment. Nowhere does Andrews mention a purchase order for which payment has been guaranteed by the purchaser. The Examiner is merely using hindsight analysis to include the limitations of claim 8 in Andrews’ system.

### **Claims 9 and 22:**

Regarding claim 9, Andrews in view of Treyz fails to teach or suggest that the improved terms comprise a better price, or a better delivery, or a better warranty or a better return policy. The Examiner cites the abstract, column 8, lines 45-67, and column 2, lines 37-48, but none of these citations mentions improved terms, a better price, a better delivery, a better warranty or a better return policy. The Examiner makes no explicit mention of the limitations of claims 9 and 22. Therefore, the Examiner has not even attempted to establish a *prima facie* rejection of the specific limitations of claim 9. Thus, the rejection is improper.

### **Claims 10 and 23:**

Regarding claim 10, Andrews in view of Treyz does not teach or suggest that making an offer to the purchaser comprises: reading information associated with commitment to purchase; determining if commitment to purchase represents an area of interest for an improved terms service provider; if commitment to purchase represents an area of interest for the improved terms service provider, making the offer to the purchaser.

The Examiner does not provide any specific arguments or cite any particular passages of prior art regarding the rejection of claim 10. Instead, the Examiner merely lists claim 10 with the rejection of claim 1 without making any particular reference or arguments regarding the limitations of claim 10. Therefore, the Examiner has not even attempted to establish a *prima facie* rejection of the specific limitations of claim 10. Thus, the rejection is improper.

Furthermore, neither Andrews, nor Treyz, nor any combination of the two, teaches anything regarding the specific limitations of claim 10. As discussed above, Andrews teaches a bundle system wherein members are able to view, select, and purchase bundles generated and posted by the bundle vendors (Andrews, Abstract). When vendors enter products that are available to be included in bundles, vendors may indicate whether they are willing to negotiate terms such as price or quantity if the vendors' products/services are reviewed and chosen for inclusion within a bundle (Andrews, col. 8, lines 9-10 and 42-44). Treyz teaches a system for providing shopping assistance in shopping malls using a handheld computing device. Treyz is not concerned with online purchasing at all. Thus, both Andrews and Treyz fail to teach or suggest anything regarding reading information associated with commitment to purchase, determining if commitment to purchase represents an area of interest for an improved terms service provider, or if commitment to purchase does represent an area of interest for the improved terms service provider, making the offer to the purchaser.

#### **Claims 11 and 24:**

Regarding claim 11, Andrews in view of Treyz fails to teach wherein conducting said search for said improved terms comprises conducting an auction amongst a plurality of suppliers for said product. As with the rejection of claim 10 above, the Examiner fails to provide any arguments or cite any particular portions of the prior art regarding the rejection of claim 11. Instead, the Examiner just lists claim 11 as rejected with the rejection of claim 1 without any reference to the specific limitations of claim 11.

Therefore, the Examiner has not even attempted to establish a *prima facie* rejection of the specific limitations of claim 11. Thus, the rejection is improper.

Additionally, neither Andrews, nor Treyz, nor any combination of the two, discloses wherein conducting the search for the improved terms comprises conducting an auction amongst a plurality of suppliers for the product. Andrews teaches that suppliers may negotiate terms for products to be included in a bundle (Andrews, col. 8, lines 9-10 and 42-44). However, the negotiating in Andrews has nothing to do with conducting an auction amongst a plurality of supplies as part of conducting a search for improved terms.

**Claims 12 and 25:**

Regarding claim 12, Andrews in view of Treyz fails to disclose or suggest that the contract comprises entering a legal contract with the purchaser to supply the product under the improved terms. As with the rejections of claims 10 and 11, discussed above, the Examiner has failed to provide a proper rejection of claim 12 by failing to provide any specific arguments or to cite any particular passages of prior art that teach or suggest the specific limitations of claim 12. Instead, the Examiner just lists claim 12 as rejected with the rejection of claim 1. Therefore, the Examiner has not even attempted to establish a *prima facie* rejection of the specific limitations of claim 12. Thus, the rejection is improper.

Furthermore, Andrews and Treyz, either singly or in combination, fail to disclose anything regarding entering a legal contract with the purchaser to supply the product under improved terms. As discussed above, Andrews only deals with negotiations among suppliers to provide bundles of products or services. Nowhere does Andrews mention anything regarding a legal contract with a purchaser. Treyz is only concerned with providing shopping assistance in shopping malls and has nothing to do with legal contracts with purchasers to supply products under improved terms. Thus, no combination of Andrews and Treyz teaches the limitations recited in claim 12.

**Claims 29, 39 and 40:**

In regard to claim 29, Andrews in view of Treyz fails to teach or suggest detecting an issuance of a commitment to purchase with associated terms for the product or service being purchased by a purchaser using an Internet web site. As noted above regarding claim 1, Andrews teaches a bundle system wherein members are able to view, select, and purchase bundles generated and posted by the bundle vendors. Treyz teaches a system in which a handheld computing device may be used to provide a user with shopping assistance when physically present, in person, in a retail shopping mall. Neither Andrews nor Treyz teaches or suggests anything regarding detecting an issuance of a commitment to purchase by a purchaser using an Internet web site. Treyz is concerned with providing shopping assistance to shoppers in shopping malls, not purchasers using an Internet web site. Furthermore, the shopping assistance provided by Treyz has absolutely no bearing on Andrews' automated negotiations for combining products or services of vendors to be sold as a bundle. For a more detailed discussion regarding this argument, please refer to the arguments above regarding claim 1.

Andrews in view of Treyz further fails to teach or suggest in response to detecting the issuance of a commitment to purchase, offering the purchaser an opportunity to enter into an alternative contract in which the purchaser agrees to wait a predetermined amount of time in exchange for a possibility of securing a better price for said particular time or service. In Andrews, negotiations are between the suppliers of bundles and the items that are sold as bundles. Treyz describes how manufacturers may provide a discount or otherwise subsidize a purchase if an item is purchased from that manufacturer. Neither Andrews nor Treyz mentions anything regarding offering the purchaser an opportunity to enter into an alternative contract including waiting a predetermined amount of time in exchange for a possibility of securing a better price. Please refer to the arguments above regarding claim 1 for a more detailed discussion regarding how Andrews in view of Treyz fails to teach or suggest offering the purchaser such an alternative contract.

Furthermore, the cited art fails to teach, or suggest searching for said better price for said particular item or service. There is clearly no description in Andrews of conducting a search for said improved terms within said predetermined time. As noted above, regarding claim 1, Treys further fails to describe searching for better pricing. Thus, Andrews and Treyz, either singly or in combination, fail to disclose anything regarding conducting a search for said improved terms within a predetermined time. As discussed above, Andrews only deals with negotiations among suppliers to provide bundles of products or services. Treyz is only concerned with providing shopping assistance in shopping malls and has nothing to do with searching the Internet for improved terms within said predetermined time. Clearly, no combination of Andrews and Treyz teaches this limitation of claim 29.

Moreover, the cited art fails to teach, or suggest, if said better price is found before said predetermined amount of time expires, purchasing the particular item or service for the purchaser at the better price and charging the purchaser a new price between said particular price and said better price. The Examiner has not make any arguments, nor cited any passage of prior art, regarding this limitation of claim 29. Instead, the Examiner has merely listed claim 29 with the rejection of claim 1, even though claim 1 does not recite such a limitation. **Therefore, the Examiner has not even attempted to state a *prima facie* rejection for claim 29.** There is no description in either Andrews or Treyz regarding purchasing an item at a better price and charging the purchaser a price between the better price and the particular price. Neither the shopping assistance provided by Treyz nor the automated bundle negotiations of Andrews has anything to do with make such a purchase at a better price and charging the purchaser a new price between the better price and an original price.

### **Claim 30:**

Regarding claim 30, Andrews in view of Treyz fails to disclose or suggest that if the original purchase is not available after the searching is complete, purchasing the particular item for the purchaser at another price and charging the purchaser the particular

price. The Examiner fails to point out any particular passage of the prior art that teaches or suggests the limitations of claim 30. In fact, the Examiner fails to make any argument regarding the specific limitations of claim 30. Therefore, the Examiner has not even attempted to establish a *prima facie* rejection of the specific limitations of claim 30. Thus, the rejection is improper.

Moreover, Andrews and Treyz, whether singly or in combination, absolutely fail to teach or suggest purchasing a particular item for the purchaser at another price and charging the purchaser the particular price if the original purchase is not available after the searching is complete. Andrews is concerned with negotiations among suppliers to provide bundles of products or services while Treyz only deals with a handheld computing device to provide shopping assistance to shoppers in shopping malls. Nowhere does Andrews or Treyz mention anything regarding the limitations of claim 30.

**Claim 31:**

Regarding claim 31, Andrews in view of Treyz fails to teach or suggest that the detecting comprising detecting the purchaser entering a credit card number or pre-paid account number of a gift certificate number. The Examiner cites column 2, lines 37-48 and argues, “Andrews discloses a method of payment and shipping information, it is be obvious to realize that the form of payment can also include payment by credit card or gift certificate or account number.” Andrews describes how if a user decides to purchase a product from an internet site, the user then enters payment and shipping information (column 2, lines 39-44). Merely mentioning that a user may enter payment and shipping information does not disclose any and every possible form of payment. Nowhere does Andrews mention a user entering credit card numbers, account numbers, or gift certificate numbers. The Examiner is merely using hindsight analysis to include the limitations of claim 31 in Andrews’ system. Furthermore, even if credit card payment was used in Andrews’ system, that would still not suggest offering the purchaser an opportunity to enter into an alternative contract *in response to* detecting an issuance of a commitment to purchase which comprises detecting entry of a credit card number.

**Claim 32:**

Regarding claim 32, Andrews in view of Treyz fails to teach or suggest that detecting an issuance of a commitment to purchase with associated terms for said product or service being purchased by a purchaser using an Internet web site comprises detecting the purchaser viewing a particular web page. The Examiner cites column 1, line 65 – column 2, line 14 of Andrews that describes how someone uses a web browser to access information on the Internet. Nowhere does the passage mention that detecting an issuance of a commitment to purchase comprises *detecting* a purchaser viewing a particular web page. A simple description of how web browsers work to access information on the Internet does not in any way suggest detecting a purchaser viewing a particular web page as part of detecting an issuance of a commitment to purchase with associated terms for a product or service being purchased by a purchaser using an Internet web site. The cited passage does not even mention online purchasing, but instead describes generally how web browsers and hyperlinks work.

**Claim 33:**

Regarding claim 33, Andrews in view of Treyz fails to teach or suggest that detecting an issuance of a commitment to purchase with associated terms for said product or service being purchased by a purchaser using an Internet web site comprises detecting said purchaser accessing a particular URL. As with the rejection of claim 32, discussed above, the Examiner cites column 1, line 65 – column 2, line 14 of Andrews that describes how someone uses a web browser to access information on the Internet. However, the cited passage does not describe that detecting an issuance of a commitment to purchase comprises *detecting* a purchaser accessing a particular URL. A simple description of how web browsers work to access information on the Internet does not imply detecting a purchaser accessing a particular URL as part of detecting an issuance of a commitment to purchase with associated terms for a product or service being purchased by a purchaser using an Internet web site. The cited passage does not even mention

online purchasing, but instead describes generally how web browsers and hyperlinks work.

**Claim 34:**

Regarding claim 34, Andrews in view of Treyz fails to teach or suggest that detecting an issuance of a commitment to purchase with associated terms for said product or service being purchased by a purchaser using an Internet web site comprises detecting said purchaser clicking an icon to confirm an order. As with the rejection of claim 32, discussed above, the Examiner cites column 1, line 65 – column 2, line 14 of Andrews that describes how someone uses a web browser to access information on the Internet. However, the cited passage does not describe that detecting an issuance of a commitment to purchase comprises *detecting* a purchaser clicking an icon to confirm an order. A simple description of how web browsers work to access information on the Internet does not imply detecting a purchaser clicking an icon to confirm an order as part of detecting an issuance of a commitment to purchase with associated terms for a product or service being purchased by a purchaser using an Internet web site. The cited passage does not even mention online purchasing, but instead describes generally how web browsers and hyperlinks work.

**Claim 35:**

Regarding claim 35, Andrews in view of Treyz fails to teach or suggest that making an offer to the purchaser comprises displaying the contract on a screen of a computer system used by the purchaser to purchase the product over the Internet. The Examiner cites column 1, line 65 – column 2, line 14 of Andrews. However, this portion of Andrews merely describes how someone uses a web browser to access information on a server over the internet. This passage has no relevance to displaying a contract for negotiating improved terms within a specified time on a screen of a computer system in response to detecting an issuance of a commitment to purchase. The Examiner has provided no explanation supporting his assertion that this passage teaches the limitations of claim 35. The cited passage does not mention a contract for negotiating improved

terms nor about displaying any contract on a screen of a computer system. Nor does the cited passage have anything to do with an offer made in response to detecting an issuance of a commitment to purchase.

**Claim 36:**

Regarding claim 36, Andrews in view of Treyz fails to teach or suggest that the commitment to purchase includes a purchase order for which payment has been guaranteed by the purchaser. The Examiner cites column 2, lines 37-48 and argues, “Andrews discloses a method of payment and shipping information, it is obvious to realize that the form of payment can also include payment by credit card or gift certificate or account number.” The Examiner makes no mention of the limitation of claim 36. Presumably, the Examiner contends that it is also obvious that the form of payment can also include a purchase order as recited in claim 36. However, the cited passage only describes how if a user decides to purchase a product from an internet site, the user then enters payment and shipping information (column 2, lines 39-44). Merely mentioning that a user may enter payment and shipping information does not disclose any and every possible form of payment. Nowhere does Andrews mention a purchase order for which payment has been guaranteed by the purchaser. The Examiner is merely using hindsight analysis to include the limitation of claim 36 in Andrews’ system.

**Claim 37:**

Regarding claim 37, Andrews in view of Treyz does not teach or suggest that making an offer to the purchaser comprises: reading information associated with commitment to purchase; determining if commitment to purchase represents an area of interest for an improved terms service provider; if commitment to purchase represents an area of interest for the improved terms service provider, making the offer to the purchaser.

The Examiner does not provide any specific arguments or cite any particular passages of prior art regarding the rejection of claim 37. Instead, the Examiner merely

lists claim 37 with the rejection of claim 1 without making any particular reference or arguments regarding the limitations of claim 37. Therefore, the Examiner has not even attempted to establish a *prima facie* rejection of the specific limitations of claim 37. Thus, the rejection is improper.

Furthermore, neither Andrews, nor Treyz, nor any combination of the two, teaches anything regarding the specific limitations of claim 37. As discussed above, Andrews teaches a bundle system wherein members are able to view, select, and purchase bundles generated and posted by the bundle vendors (Andrews, Abstract). When vendors enter products that are available to be included in bundles, vendors may indicate whether they are willing to negotiate terms such as price or quantity if the vendors' products/services are reviewed and chosen for inclusion within a bundle (Andrews, col. 8, lines 9-10 and 42-44). Treyz teaches a system for providing shopping assistance in shopping malls using a handheld computing device. Treyz is not concerned with online purchasing at all. Thus, both Andrews and Treyz fail to teach or suggest anything regarding reading information associated with commitment to purchase, determining if commitment to purchase represents an area of interest for an improved terms service provider, or if commitment to purchase does represent an area of interest for the improved terms service provider, making the offer to the purchaser.

**Claim 38:**

Regarding claim 38, Andrews in view of Treyz fails to teach wherein conducting said search for said improved terms comprises conducting an auction amongst a plurality of suppliers for said product. As with the rejection of claim 10 above, the Examiner fails to provide any arguments or cite any particular portions of the prior art regarding the rejection of claim 38. Instead, the Examiner just lists claim 38 as rejected with the rejection of claim 1 without any reference to the specific limitations of claim 38. Therefore, the Examiner has not even attempted to establish a *prima facie* rejection of the specific limitations of claim 38. Thus, the rejection is improper.

Additionally, neither Andrews, nor Treyz, nor any combination of the two, discloses wherein conducting the search for the improved terms comprises conducting an auction amongst a plurality of suppliers for the product. Andrews teaches that suppliers may negotiate terms for products to be included in a bundle (Andrews, col. 8, lines 9-10 and 42-44). However, the negotiating in Andrews has nothing to do with conducting an auction amongst a plurality of supplies as part of conducting a search for improved terms. For a more detailed discussion regarding the teaching of Andrews, please refer to the arguments above regarding the rejection of claim 1.

**Claims 41 and 42:**

In regard to claim 41, Andrews in view of Treyz fails to teach or suggest detecting an action by a purchaser that indicates that the purchaser is about to make an original purchase for a particular item or service over the Internet for a particular price. As noted above, regarding claim 1, neither Andrews nor Treyz teaches anything regarding detecting such an action indicating that a purchaser is about make a purchase over the Internet. Instead, Andrews teaches a bundle system wherein members are able to view, select, and purchase bundles generated and posted by the bundle vendors and Treyz teaches a system in which a handheld computing device may be used to provide a user with shopping assistance when physically present, in person, in a retail shopping mall. Neither cited art reference is concerned with detecting a purchaser about to make a purchase over the Internet. For a more detailed discussion regarding how neither Andrews nor Treyz teaches or suggests detecting a purchaser about to make a purchase over the Internet, please see the arguments above regarding claim 1.

Furthermore, the cited art fails to teach or suggest automatically delaying the purchase for a predetermined amount of time. The Examiner fails to cite any portion of Andrews or Treyz that mentions anything regarding automatically delaying a purchase for a predetermined amount of time. **In fact, the Examiner has completely ignored this limitation of claim 41.** Instead, the Examiner has merely listed claim 41 with his rejection of claim 1. As discussed above, Andrews only deals with negotiations among

suppliers to provide bundles of products or services. Treyz is only concerned with providing shopping assistance in shopping malls and has nothing to do with delaying an Internet purchase for a predetermined time. Column 8, lines 45-67 of Andrews, cited by the Examiner regarding claim 1, simply describes that a product/service vendor may indicate whether the vendor is willing to negotiate terms if the vendor's product/service is selected for inclusion in a bundle. Column 2, lines 37-48 of Andrews describe how a *user* may search for and obtain information about products or services offered by a retail-oriented internet site (col. 2, lines 37-48). There is clearly no description in Andrews of a purchaser accepting a contract for negotiating improved terms within a predetermined time. Nor is there any description in Andrews of automatically delaying said purchase for a predetermined amount of time. Thus, no combination of Andrews and Treyz teaches the limitations recited in claim 41.

Additionally, Andrews in view of Treyz does not teach or suggest searching for a better price for the particular item or service. As noted above regarding claim 1, there is simply no description in Andrews or Treyz regarding searching for improved terms or better prices for items or services. Please see the arguments above regarding claim 1 for a more detailed discussion regarding the failure of Andrews and Treyz to teach or suggest conducting a search for better pricing.

The cited art further fails to teach or suggest if the better price is found before the predetermined amount of time expires, purchasing the particular item or service for the purchaser at the better price and charging the purchaser a new price between the particular price and the better price. As discussed above regarding claim 1, Andrews only deals with vendors willing to negotiate terms if products or services are selected for inclusion in a bundle. Andrews mentions nothing regarding finding a better price before a predetermined amount of time expires. Nor does Andrews mention anything regarding purchasing the item as the better price and charging the purchaser a price between the particular price and the better price. As noted above, Treyz has nothing whatsoever to do with purchasing items over the Internet. Thus, no combination of Andrews and Treyz would teach or suggest this limitation of claim 41.

**Claim 43:**

Regarding claim 43, Andrews in view of Treyz fails to teach wherein executing the contract comprises contacting the purchaser with a confirmation of the product purchase. As with the rejection of claim 38 above, the Examiner fails to provide any arguments or cite any particular portions of the prior art regarding the rejection of claim 38. Instead, the Examiner just lists claim 43 as rejected with the rejection of claim 1 without any reference to the specific limitations of claim 43. Therefore, the Examiner has not even attempted to establish a *prima facie* rejection of the specific limitations of claim 38. Thus, the rejection is improper.

Additionally, neither Andrews, nor Treyz, nor any combination of the two, discloses wherein executing the contract comprises contacting the purchaser with a confirmation of the product purchase. Andrews teaches that suppliers may negotiate terms for products to be included in a bundle (Andrews, col. 8, lines 9-10 and 42-44). However, negotiations between suppliers regarding products to be included in bundles have nothing to do with contacting the purchaser with a confirmation of the product purchase. Treyz is concerned with providing shopping assistance to shoppers in shopping malls, not purchasers using an Internet web site. Furthermore, the shopping assistance provided by Treyz has absolutely no bearing on Andrews' automated negotiations for combining products or services of vendors to be sold as a bundle. Thus, the combination of Andrews and Treyz would not result in a system that includes contacting the purchaser with a confirmation of the product purchase as part of executing the contract.

**Claim 44:**

In regard to claim 44, Andrews in view of Treyz fails to teach or suggest detecting an action by a purchaser that indicates that the purchaser is making an original purchase for a particular item or service over the Internet for a particular price. As noted above regarding claims 1, 29 and 41, neither Andrews, nor Treyz is concerned with, or

mentions, detecting an action indicating that a purchaser is making a purchase over the Internet. Please refer to the above discussions regarding claims 1, 29 and 41 for more detailed discussions regarding how the cited art fails to teach or suggest detecting such an action by a purchaser indicating that the purchases is making a purchase over the Internet for a particular price.

The cited art further fails to anticipate, teach, or suggest in response to detecting the action, accessing a broker-agent web site for seeking a better price for the particular item or service within a predetermined amount of time. Column 8, lines 45-67 of Andrews simply describes that a product/service vendor may indicate whether the vendor is willing to negotiate terms if the vendor's product/service is selected for inclusion in a bundle. Column 2, lines 37-48 of Andrews simply describe that a *user* may search for and obtain information about products or services offered by a retail-oriented Internet site (col. 2, lines 37-48). There is clearly no description in Andrews of a purchaser accepting a contract for negotiating improved terms within a predetermined time. Nor is there any description in Andrews of accessing a broker-agent web site for seeking a better price for said particular item or service within a predetermined amount of time. Treyz is only concerned with providing shopping assistance in shopping malls and has nothing to do with accessing a broker-agent web site for seeking a better price for said particular item or service within a predetermined amount of time. In fact, Andrews and Treyz both fail to mention anything regarding a broker agent web site. Please refer to the arguments above regarding claim 1 for a more detailed discussion regarding the cited arts failure to teach or suggest searching anything about seeking or searching for a better price, whether by accessing a broker-agent web site, or by any other method.

The cited art further fails to teach or suggest if the better price if found before the predetermined amount of time expires, purchasing the particular item or service for the purchaser at the better price and charging the purchaser a new price between the particular price and the better price. As discussed above regarding claims 1 and 41, Andrews only deals with vendors willing to negotiate terms if products or services are selected for inclusion in a bundle. Andrews mentions nothing regarding finding a better

price before a predetermined amount of time expires. Nor does Andrews mention anything regarding purchasing the item as the better price and charging the purchaser a price between the particular price and the better price. As noted above, Treyz has nothing whatsoever to do with purchasing items over the Internet. Thus, no combination of Andrews and Treyz would teach or suggest this limitation of claim 44.

### **VIII. CONCLUSION**

For the foregoing reasons, it is submitted that the Examiner's rejection of claims 1-44 was erroneous, and reversal of his decision is respectfully requested.

The Commissioner is authorized to charge the appeal brief fee of \$250.00 (small entity) and any other fees that may be due to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5596-00300/RCK. This Appeal Brief is submitted with a return receipt postcard.

Respectfully submitted,



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## IX. CLAIMS APPENDIX

The claims on appeal are as follows.

1. A method for negotiating improved terms for a product or service being purchased over the Internet, the method comprising:

detecting an issuance of a commitment to purchase with associated terms for said product or service being purchased by a purchaser using an Internet web site;

in response to said detecting, making an offer to said purchaser to accept or reject a contract for negotiating said improved terms within a specified time;

if said purchaser accepts said offer:

conducting a search for said improved terms within said specified time;

receiving said improved terms within said specified time; and

executing said contract.

2. The method of claim 1, wherein said detecting comprises detecting said purchaser entering a credit card number or a pre-paid account number or a gift certificate number.

3. The method of claim 1, wherein said detecting comprises detecting said purchaser viewing a particular web page.

4. The method of claim 1, wherein said detecting comprises detecting said purchaser accessing a particular URL.

5. The method of claim 1, wherein said detecting comprises detecting said purchaser clicking an icon to confirm order.

6. The method of claim 1, wherein said making an offer to said purchaser comprises displaying said contract on a screen of a computer system used by said purchaser to purchase said product over the Internet.

7. The method of claim 1, wherein if said purchaser rejects said contract: executing said commitment to purchase.

8. The method of claim 1, wherein said commitment to purchase comprises a purchase order for which payment has been guaranteed by said purchaser.

9. The method of claim 1, wherein said improved terms comprise a better price, or a better delivery, or a better warranty or a better return policy compared to the terms associated with said commitment to purchase.

10. The method of claim 1, wherein making an offer to said purchaser comprises:

reading information associated with commitment to purchase;

determining if commitment to purchase represents an area of interest for an improved terms service provider;

if commitment to purchase represents an area of interest for said improved terms service provider:

making said offer to said purchaser.

11. The method of claim 1, wherein conducting said search for said improved terms comprises conducting an auction amongst a plurality of suppliers for said product.

12. The method of claim 1, wherein executing said contract comprises entering a legal contract with said purchaser to supply said product under said improved terms.

13. The method of claim 1, wherein conducting said search for said improved terms comprises searching a database of preferred suppliers for said product.

14. A system for negotiating improved terms for a product or service being purchased over a computer network, the system comprising:

a computer program;

a web site server computer system;

wherein said computer program is executable on a client computer system by a purchaser to connect with the web site server and detect an issuance of a commitment to purchase with associated terms for said product or service; and

wherein the web site server is operable to:

receive a notification about said issuance of said commitment to purchase;

in response to receiving said notification, make an offer to said purchaser to accept or reject a contract for negotiating improved terms within a specified time; and

in response to said purchaser accepting said offer:

conduct a search for said improved terms within said specified time;

receive said improved terms within said specified time;

execute said contract.

15. The system of claim 14, wherein said computer program is configured to detect the issuance of the commitment to purchase by detecting said purchaser entering a credit card number or a pre-paid account number or a gift certificate number.

16. The system of claim 14, wherein said computer program is configured to detect the issuance of the commitment to purchase by detecting said purchaser viewing a particular web page.

17. The system of claim 14, wherein said computer program is configured to detect the issuance of the commitment to purchase by detecting said purchaser accessing a particular URL.

18. The system of claim 14, wherein said computer program is configured to detect the issuance of the commitment to purchase by detecting said purchaser clicking an icon to confirm order.

19. The system of claim 14, wherein said web site server is configured to make the offer to said purchaser by displaying said contract on a screen of a computer system used by said purchaser to purchase said product over the Internet.

20. The system of claim 14, wherein if said purchaser rejects said contract; the computer program is configured to execute said commitment to purchase.

21. The system of claim 14, wherein said commitment to purchase comprises a purchase order for which payment has been guaranteed by said purchaser.

22. The system of claim 14, wherein said improved terms comprise one or more of the following: a better price, a better delivery, a better warranty, or a better return policy, as compared to the terms associated with said commitment to purchase.

23. The system of claim 14, wherein said web server is configured to make the offer to said purchaser by:

reading information associated with the commitment to purchase;

determining if the commitment to purchase represents an area of business interest for an improved terms service provider; and

if the commitment to purchase represents an area of interest for said improved terms service provider, then making said offer to said purchaser.

24. The system of claim 14, wherein conducting said search for said improved terms comprises conducting an auction amongst a plurality of suppliers for said product or service.

25. The system of claim 14, wherein executing said contract comprises entering a legal contract with said purchaser to supply said product under said improved terms.

26. The system of claim 14, wherein conducting said search for said improved terms comprises searching a database of preferred suppliers for said product.

27. The system of claim 14, wherein said client computer system is one or more of the following: a personal computer, a laptop computer, a notebook computer, an

Internet-enabled cellular phone, an Internet-enabled personal digital assistant, or an Internet-enabled television.

28. A carrier medium comprising program instructions, wherein the program instructions are executable by a computer system to implement the method of claim 1.

29. A method comprising:

detecting an action by a purchaser that indicates that the purchaser is about to make an original purchase for a particular item or service over the Internet for a particular price;

in response to said detecting, offering the purchaser an opportunity to enter into an alternative contract in which the purchaser agrees to wait a predetermined amount of time in exchange for a possibility of securing a better price for said particular item or service;

searching for said better price for said particular item or service;

if said better price is found before said predetermined amount of time expires, purchasing the particular item or service for the purchaser at the better price and charging the purchaser a new price between said particular price and said better price; and

if said better price is not found before said predetermined amount of time expires, executing the original purchase for the particular item or service over the Internet for the particular price.

30. The method as recited in claim 29, wherein if said original purchase is not available after said searching is complete, purchasing said particular item for said purchaser at another price and charging the purchaser said particular price.

31. The method of claim 29, wherein said detecting comprises detecting said purchaser entering a credit card number or a pre-paid account number or a gift certificate number.

32. The method of claim 29, wherein said detecting comprises detecting said purchaser viewing a particular web page.

33. The method of claim 29, wherein said detecting comprises detecting said purchaser accessing a particular URL.

34. The method of claim 29, wherein said detecting comprises detecting said purchaser clicking an icon to confirm order.

35. The method of claim 29, wherein said offering said purchaser said opportunity to enter into said alternative contract comprises displaying said alternative contract on a screen of a computer system used by said purchaser to make said original purchase over the Internet.

36. The method of claim 29, wherein said original purchase comprises a purchase order for which payment has been guaranteed by said purchaser.

37. The method of claim 29, wherein offering said purchaser said opportunity to enter into said alternative contract comprises:

reading information associated with said original purchase;

determining if said original purchase represents an area of interest for an alternative contract provider;

if said original purchase represents an area of interest for said alternative contract provider:

making said alternative contract to said purchaser.

38. The method of claim 29, wherein searching for said better price comprises conducting an auction amongst a plurality of suppliers for said particular item.

39. The method of claim 29, wherein searching for said better price comprises searching a database of preferred suppliers for said particular item.

40. A carrier medium comprising computer program instructions configured to implement the method of claim 29.

41. A method comprising:

detecting an action by a purchaser that indicates that the purchaser is about to make an original purchase for a particular item or service over the Internet for a particular price;

in response to said detecting, automatically delaying said purchase for a predetermined amount of time;

searching for a better price for said particular item or service;

if said better price is found before said predetermined amount of time expires, purchasing the particular item or service for the purchaser at the better price and charging the purchaser a new price between said particular price and said better price; and

if said better price is not found before said predetermined amount of time expires, executing the original purchase for the particular item or service over the Internet for the particular price.

42. A carrier medium comprising computer program instructions configured to implement the method of claim 41.

43. The method of claim 41, wherein executing said contract comprises contacting said purchaser with a confirmation of said product purchase.

44. A method comprising:

detecting an action by a purchaser that indicates that the purchaser is making an original purchase for a particular item or service over the Internet for a particular price;

in response to said detecting, accessing a broker-agent web site for seeking a better price for said particular item or service within a predetermined amount of time;

if said better price is found before said predetermined amount of time expires, purchasing the particular item or service for the purchaser at the better price and charging the purchaser a new price between said particular price and said better price; and

if said better price is not found before said predetermined amount of time expires, executing the original purchase for the particular item over the Internet for the particular price.

**X. EVIDENCE APPENDIX**

No evidence submitted under 37 CFR §§ 1.130, 1.131 or 1.132 or otherwise entered by the Examiner is relied upon in this appeal.

## **XI. RELATED PROCEEDINGS APPENDIX**

There are no related proceedings.